a surrender of the old lease are technically sound. *Gray* v. *Kaufman Dairy &c. Co.*, 162 N. Y. 388, 56 N. E. 903; *Biggs* v. *Stueler*, 93 Md. 100, 48 Atl. 727. The late decisions support the principal case. The substantial effect of such holdings is to deny the right of a defaulting tenant to escape the consequences of his wrong by entrenching himself behind a sound legal principle invoked by an act which would result to his benefit. *Levy* v. *Burkstrom*, 191 Ill. App. 478; *Conner* v. *Warner* (Okla. 1915), 152 Pac. 1116; *Baldwin* v. *Lampkin*, 14 Ga. App. 828, 82 S. E. 369; *Contratto* v. *Star Brewery Co.*, 165 Ill. App. 507; *Zabriskie* v. *Sullivan*, 80 N. J. L. 673, 77 Atl. 1075; *Boardman Realty Co.* v. *Carlin*, 82 Conn. 413, 74 Atl. 682. The landlord may protect himself in any jurisdiction by a stipulation in the lease which permits him to re-rent the premises, and at the same time preserves his right to recover any deficiency. But even here, the right to the sum due after abandonment is contractual, and not, strictly speaking, for rent. *Manhattan Realty Appraisers* v. *Marchbank*, 149 N. Y. Supp. 834, 87 Misc. 336; *Grommes* v. *St. Paul Trust Co.*, 147 Ill. 634, 35 N. E. 820; *Woodbury* v. *Sparrell Print*, 187 Mass. 426, 73 N. E. 547.

LIBEL AND SLANDER—WORDS LIBELOUS PER SE.—Plaintiff and defendant were engaged in the undertaking business in the same town. Plaintiff alleged that the defendant printed and mailed to a man, whose wife was critically ill at the time, a card bearing these words: "Bear in mind our Undertaking Department. Satisfaction guaranteed. (Signed) H. L. Hughes." Plaintiff sued for libel and the defendant demurred. *Held*, that the demurrer should be overruled. *Hughes* v. *Samuels Bros.* (Ia. 1916), 159 N. W. 589.

The usual test in determining whether words are libelous per se is: Are they such as to injure the plaintiff's reputation or his business? TOWNSHEND, SLANDER AND LIBEL (3rd Ed.) 264. Judged by that standard the words here used, taken by themselves, would not be libelous. *Stone* v. *Cooper*, 2 Denio 293; *Bennett* v. *Williamson*, 4 Sandf. 60. They become libelous, however, because of the circumstances under which they were published, and because of the effect which the publication would naturally have upon the mind of the person to whom a knowledge of the publication was brought. But, although it is doubtful whether the words here used would formerly have supported an action for libel, there can be no doubt that the decision is justified. The court puts it upon the broad ground that any intentional injury of another, which cannot be justified, is a tort, and if the injury is committed by means of written words then it is a libel. See generally: BIGELOW, TORTS (8th Ed.), 297, 298, note. See also, *Wallace* v. *Bennett*, 1 Abb. N. C. 478; *Bassell* v. *Elmore*, 48 N. Y. 561; *Pollard* v. *Lyon*, 91 U. S. 225.

MUNICIPAL CORPORATIONS—LIABILITY FOR NEGLIGENCE—PUBLIC CELEBRATIONS.—The City of New Haven under the permissive authority of its charter conducted a Fourth of July celebration on a public green. The entertainment included a display of fireworks. The plaintiff's intestate was killed by the explosion of a bomb, a result alleged in the complaint to be due to

the negligence of the defendant. The latter demurred. *Held,* that the demurrer should be sustained on the ground that the city in holding the celebration was performing a governmental function and hence was not liable for a negligent performance, as the act was not in itself intrinsically dangerous. *Pope* v. *City of New Haven* (Conn. 1916), 99 Atl. 51.

That a city is not liable for the negligent performance of governmental duties in general is well settled, 2 DILLON, MUN. CORP. (4th Ed.), §949. See 15 MICH. L. REV. 180, 30 HARV. L. REV. 270. But the fact that the duties are governmental will not excuse the city if the act is in itself intrinsically dangerous. *Colwell* v. *Waterbury,* 74 Conn. 568, 51 Atl. 530; *Speir* v. *Brooklyn,* 139 N. Y. 6, 34 N. E. 727. It has been held that where a municipality has the power to give such a celebration as that in the instant case, if it is exclusively for the gratuitous amusement of the public the municipality is not liable. The act in which it is engaged is solely for the general benefit and interest of the public. *Tindley* v. *City of Salem,* 137 Mass. 171, 50 Am. Rep. 289; *Kerr* v. *City of Brookline,* 208 Mass. 190, 94 N. E. 257. In some cases the city has been held not liable on the ground that the entertainment was an ultra vires act. *Morrison* v. *City of Lawrence,* 98 Mass. 219; *Smith* v. *City of Rochester,* 76 N. Y. 506. But when a city maintains or authorizes acts which constitute a nuisance it is liable for the damage caused, *Mootry* v. *City of Danbury,* 45 Conn. 550, 29 Am. Rep. 703; *Pennoyer* v. *Saginaw,* 8 Mich. 534; *Harper* v. *Milwaukee,* 30 Wis. 365; *Vanderslice* v. *City of Philadelphia,* 103 Pa. St. 102, and at least in some jurisdictions it cannot escape liability on the ground that it was performing a governmental function. *Sammons* v. *City of Gloversville,* 175 N. Y. 346, 67 N. E. 622; *Hart* v. *Union County,* 57 N. J. L. 90, 29 Atl. 490. Accordingly it has been held where a city permits a public exhibition of fireworks in the city street the jury may find it to be a nuisance, and in such case the city will be liable for the damages resulting on the ground that it consented to the creation of the nuisance. *Landau* v. *City of New York,* 180 N. Y. 48, 72 N. E. 631; *Speir* v. *City of Brooklyn,* 139 N. Y. 6, 34 N. E. 727; *Moore* v. *City of Bloomington,* 51 Ind. App. 145, 95 N. E. 374. Contra, on the ground that the case involves no element of the alleged wrong except negligence, and the condition is not sufficiently permanent to constitute a nuisance. *Kerr* v. *City of Brookline,* supra. Where a city merely fails to prevent fireworks on a crowded street the city is not liable for personal injury resulting. *Ball* v. *City of Woodbine,* 61 Iowa 83. *City of Madisonville* v. *Bishop,* 113 Ky. 106, 68 S. W. 269, which has been cited to the contrary, is based upon a statute. A display of fireworks in a public park is not a nuisance per se but it is a question for the jury. *Landau* v. *City of New York,* supra; *De Agrammonte* v. *City of Mt. Vernon,* 112 App. Div. 291, 98 N. Y. Supp. 454.

NEGLIGENCE—OF FERRYMAN.—Plaintiff's intestate, who was a passenger on defendant's steam ferry boat, was killed by drowning when an automobile on the boat accidently started, ran forward and knocked decedent into the river. It appeared that no practical barrier was provided by the defendant to stop the progress of a car when once started. *Held,* the question of